IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6656 OF 2004

Proposed New Dhamma Kamal Rahul
Co-operative Housing Society
(Backward) Ltd.,
through its Chief Promoter
Shri Nandu Hari Pagare .. Petitioner

Versus

The State of Maharashtra
and Ors. .. Respondents

Mr.Vijay Patil for the petitioner

Mr.P.M.Patil, A.G.P. for respondent no.1 to 7

Ms.Nikita Ajwani h/f Mr.I.P.Bagasia for respondent no.9(a)(b)(c)

Mr.V.A.Gangal and Mr.Harshad Deshpande for respondent no.10

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 9TH SEPTEMBER, 2004

P.C.:

1. Heard advocates.

2. The subject matter of this petition is land bearing Survey Number 31 admeasuring 62.40 acres i.e. 6240 sq.mtrs. situated at Village

Agartakali, Taluka and District Nasik. The State Government has initiated acquisition proceedings in respect of the said land for the purpose of respondent no.8 which is a Housing Society. It appears that by filing Writ Petition No.1970 of 1990 respondent no.8 challenged the decision of the State Government to drop the acquisition proceedings as respondent no.8 was not in a position to deposit the money within time. This petition was placed for hearing before the Division Bench comprising of Hon'ble Justice Shri H.L.Gokhale and Hon'ble Justice Smt. Nishita Mhatre, JJ. It appears that the respondent no.8 made a categorical statement before the Division Bench that the Society was not in a position to bear the expenditure and cost of acquisition and the acquisition proceedings should be dropped. The Society also requested for return of initial amount deposited by it. The bench accordingly allowed the writ petition to be withdrawn with direction to return the amount to the respondent no.8 which was deposited by it.

3. Pursuant to the order passed by this court the

action was taken under section 48 of the Land Acquisition Act and the lands were released in favour of the original owners and the amount deposited by respondent no.8 society was restores to the said society.

4. The present petitioner is a proposed society of Backward Class members. It appears that the petitioner sought to intervene in Writ Petition No.1970 of 1990 by filing Civil Application No.3491 of 1993. Civil Application was however, rejected by the Division Bench on the ground that petitioner has no locus-standi in the Writ Petition."

5. Mr.Patil appearing for the petitioner was unable to show how the petitioner society is entitled to challenge the decision of the Government to withdraw the acquisition or can claim substitute itself in place of respondent no.8. If the petitioner society is in need of the land for its members the petitioner must approach the State Government for allotment of land and if such an application is made, the Government shall consider the same in accordance with law. Petition is

accordingly, disposed of.